

SENATE BILL 184

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2004 Regular Session
4r0061
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By: **The President (By Request - Administration) and Senators Astle,
Brinkley, Colburn, Currie, Hafer, Hooper, Kittleman, Klausmeier,
Munson, Schrader, Stoltzfus, and Stone**

Introduced and read first time: January 23, 2004
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Natural Resources - Chesapeake Bay Recovery Fund**

3 FOR the purpose of creating the Chesapeake Bay Recovery Fund; defining certain
4 terms; providing for the use of the Fund in a certain manner; providing that the
5 Department of Natural Resources may solicit and accept gifts to the Fund;
6 providing that the Department may enter into agreements with certain
7 organizations for certain purposes; providing that certain agreements are not
8 procurement contracts; providing for the filing of certain reports; requiring the
9 Department to expend the Fund in a certain manner; providing for the
10 establishment of a certain advisory commission; providing for the terms of the
11 members; and generally relating to the creation, management, and expenditure
12 of the Chesapeake Bay Recovery Fund.

13 BY adding to
14 Article - Natural Resources
15 Section 8-205
16 Annotated Code of Maryland
17 (2000 Replacement Volume and 2003 Supplement)

18 Preamble

19 WHEREAS, The Chesapeake Bay is the single largest natural resource jewel
20 of Maryland, a wellspring of economic, social, historical, cultural, and recreational
21 value for the citizens of this State; and

22 WHEREAS, For many years, State, federal, and local governments have
23 invested substantial public funds to restore the Bay for future generations. Those
24 funds, while significant, have not been sufficient to renew the Bay's waters, living
25 resources, and habitat to sustainable levels; and

26 WHEREAS, Maryland citizens possess a strong stewardship ethic and are
27 ready, willing, and able to commit additional financial resources to assist the Bay's
28 recovery efforts; and

1 WHEREAS, It is in the best interest of the State to encourage private
2 investment in recovery of the Chesapeake Bay and to establish a framework to
3 accomplish this purpose; now, therefore,

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Natural Resources**

7 8-205.

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (2) "CHARITABLE GIVING FUND" MEANS A FUND ESTABLISHED BY A
11 PUBLIC CHARITY TO RECEIVE GIFTS FOR RECOVERY OF THE CHESAPEAKE BAY.

12 (3) "CHESAPEAKE BAY" MEANS THE CHESAPEAKE BAY, ITS
13 TRIBUTARIES, AND WATERSHEDS.

14 (4) "FUND" MEANS THE CHESAPEAKE BAY RECOVERY FUND.

15 (5) "GIFT" MEANS A GIFT, GRANT, DONATION, ENDOWMENT, BEQUEST,
16 IN-KIND SERVICE, AND ANY OTHER FORM OF FINANCIAL OR OTHER BENEFIT.

17 (6) "PUBLIC CHARITY" MEANS A CORPORATION ORGANIZED UNDER §
18 501(C)(3) OF THE INTERNAL REVENUE CODE THAT IS NOT A PRIVATE FOUNDATION
19 WITHIN THE MEANING OF § 509(A) OF THE CODE.

20 (B) (1) THERE IS A CHESAPEAKE BAY RECOVERY FUND IN THE DEPARTMENT.

21 (2) THE FUND IS ESTABLISHED TO FUND PROJECTS TO RESTORE THE
22 CHESAPEAKE BAY.

23 (3) THE FUND CONSISTS OF GIFTS FOR THE RECOVERY OF THE
24 CHESAPEAKE BAY, INCLUDING PROJECTS THAT IMPROVE WATER QUALITY,
25 ENHANCE LIVING RESOURCES SUCH AS OYSTERS AND CRABS, ESTABLISH HABITAT
26 SUCH AS UNDERWATER GRASSES FOR SHELLFISH AND FINFISH, AND OTHERWISE
27 RESTORE THE BAY FOR FUTURE GENERATIONS.

28 (4) THE DEPARTMENT MAY SOLICIT, ACCEPT, AND EXPEND GIFTS TO
29 THE FUND.

30 (5) MONEY IN THE FUND:

31 (I) MAY ONLY BE USED FOR THE RECOVERY OF THE CHESAPEAKE
32 BAY IN ACCORDANCE WITH ANY TERMS OF THE GIFT; AND

1 (II) SHALL SUPPLEMENT AND MAY NOT BE A SUBSTITUTE FOR ANY
2 MONEY DESIGNATED IN THE STATE BUDGET FOR THE RECOVERY OF THE
3 CHESAPEAKE BAY.

4 (6) (I) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
5 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

6 (II) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND
7 THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

8 (III) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
9 MANNER AS OTHER STATE FUNDS.

10 (IV) ANY UNSPENT PORTIONS OF THE FUND MAY NOT REVERT OR
11 BE TRANSFERRED TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN
12 THE FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS SECTION.

13 (V) ANY INVESTMENT EARNINGS GENERATED BY THE FUND ARE
14 PART OF THE FUND.

15 (C) (1) (I) THE DEPARTMENT MAY ENTER INTO AN AGREEMENT WITH ONE
16 OR MORE PUBLIC CHARITIES FOR ESTABLISHMENT OF A DONOR-ADVISED
17 CHARITABLE GIVING FUND WITHIN THE MEANING OF § 1.170A-9(E)(11) OF THE
18 FEDERAL INCOME TAX REGULATIONS.

19 (II) IN ACCORDANCE WITH AN AGREEMENT ENTERED UNDER
20 SUBPARAGRAPH (I) THIS PARAGRAPH, THE PUBLIC CHARITY SHALL:

21 1. ESTABLISH A CHARITABLE GIVING FUND FOR RECEIPT OF
22 GIFTS FOR RECOVERY OF THE CHESAPEAKE BAY;

23 2. SOLICIT AND RECEIVE GIFTS TO THE CHARITABLE GIVING
24 FUND;

25 3. ACCOUNT TO THE DEPARTMENT FOR GIFTS RECEIVED;

26 4. PROVIDE REPORTS TO DONORS IN ACCORDANCE WITH
27 DONOR REQUIREMENTS; AND

28 5. DISTRIBUTE GRANTS TO THE DEPARTMENT FOR
29 CHESAPEAKE BAY RECOVERY PROJECTS.

30 (2) A PUBLIC CHARITY THAT ENTERS INTO AN AGREEMENT WITH THE
31 DEPARTMENT UNDER THIS SECTION MAY RETAIN AN AMOUNT NOT TO EXCEED 3%
32 OF GIFTS RECEIVED FOR PAYMENT OF ADMINISTRATIVE COSTS.

33 (3) THE DEPARTMENT SHALL:

34 (I) DEPOSIT ANY GRANT RECEIVED FROM THE PUBLIC CHARITY
35 INTO THE CHESAPEAKE BAY RECOVERY FUND; AND

1 (II) USE THE GRANT IN ACCORDANCE WITH ITS TERMS AND THE
2 REQUIREMENTS OF THE FUND.

3 (4) AN AGREEMENT EXECUTED UNDER THIS SECTION IS NOT DEEMED
4 TO BE A PROCUREMENT CONTRACT AS DEFINED IN SECTION 11-102(N) OF THE STATE
5 FINANCE AND PROCUREMENT ARTICLE.

6 (D) (1) THERE IS A CHESAPEAKE BAY RECOVERY COMMISSION.

7 (2) THE COMMISSION IS ESTABLISHED:

8 (I) TO DESIGN, DEVELOP, AND IMPLEMENT INNOVATIVE
9 FUNDRAISING PROJECTS FOR THE RECOVERY OF THE CHESAPEAKE BAY; AND

10 (II) TO SOLICIT GIFTS FOR THE CHESAPEAKE BAY RECOVERY FUND
11 AND ADVISE THE SECRETARY ON THE DISPOSITION OF ANY GIFTS RECEIVED.

12 (3) THE COMMISSION SHALL CONSIST OF THE FOLLOWING MEMBERS:

13 (I) THE SECRETARIES OF NATURAL RESOURCES, THE
14 ENVIRONMENT, AGRICULTURE, AND BUDGET AND MANAGEMENT, OR THEIR
15 DESIGNEES;

16 (II) TWO MEMBERS OF THE SENATE, APPOINTED BY THE
17 PRESIDENT OF THE SENATE;

18 (III) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY
19 THE SPEAKER OF THE HOUSE; AND

20 (IV) TWELVE MEMBERS APPOINTED BY THE GOVERNOR.

21 (4) THE MEMBERS APPOINTED BY THE GOVERNOR SHALL INCLUDE
22 REPRESENTATIVES FROM BUSINESS, ENVIRONMENTAL AND AGRICULTURAL
23 ORGANIZATIONS, AND LOCAL GOVERNMENTS.

24 (5) (I) 1. THE TERM OF MEMBERSHIP IS 3 YEARS; AND

25 2. A PERSON MAY NOT SERVE MORE THAN TWO
26 CONSECUTIVE TERMS.

27 (II) THE TERMS OF THE MEMBERS APPOINTED BY THE GOVERNOR
28 ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE
29 COMMISSION ON OCTOBER 1, 2004.

30 (III) AT THE END OF A TERM A MEMBER CONTINUES TO SERVE
31 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

32 (IV) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
33 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
34 AND QUALIFIES.

1 (6) THE GOVERNOR SHALL DESIGNATE THE CHAIRPERSON OF THE
2 COMMISSION FROM THE MEMBERS OF THE COMMISSION.

3 (7) THE DEPARTMENT OF NATURAL RESOURCES, IN COOPERATION
4 WITH THE DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT OF
5 AGRICULTURE, AND THE DEPARTMENT OF BUDGET AND MANAGEMENT SHALL
6 PROVIDE STAFF SUPPORT FOR THE COMMISSION.

7 (8) EACH MEMBER OF THE COMMISSION:

8 (I) SERVES WITHOUT COMPENSATION; AND

9 (II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES IN
10 ACCORDANCE WITH THE STANDARD STATE TRAVEL REGULATIONS.

11 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the
12 members of the Chesapeake Bay Recovery Commission appointed by the Governor
13 shall expire as follows:

14 (1) 4 members in 2005;

15 (2) 4 members in 2006; and

16 (3) 4 members in 2007.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
18 effect July 1, 2004.